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Schwaninger & Associates, P.C. Attorneys at Law

1331 H Street, N.W., Suite 500, Washington, DC 20005

Internet Address - <http://www.sa-lawyers.net>

telephone - (202) 347-8580

facsimile - (202) 347-8607

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MAY - 6 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Robert H. Schwaninger, Jr.

Michael L. Higgs, Jr. †

Delaney M. DiStefano

Benjamin J. Aron

Richard P. Hanno †

Garret R. Hargrave ††

†Admitted in Maryland

††Admitted in Indiana

Vic Jackson

Interconnection Consultant

May 6, 2002

via Hand Delivery

William F. Caton
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Qualex International
Portals II
445 12th Street, SW
Room CY-B402
Washington, DC 20554

Michael J. Wilhelm
Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Comments to Notice of Proposed Rule Making, WT Docket 02-55
In the Matter of Improving Public Safety Communications
in the 800 MHz Band
Consolidating the 900 MHz Industrial/Land Transportation
and Business Pool Channels

Dear Sirs:

We represent the telecommunication interests of Jamestown Communications, Inc.
(Jamestown) and Midwest Management, Inc. (Midwest), which parties have elected to

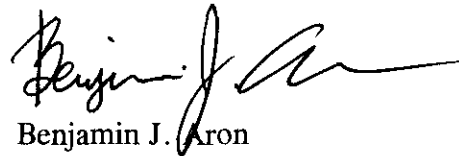
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collaborate and file a joint set of comments. Accordingly, on behalf of Jamestown and Midwest, we submit their comments to the above referenced matter, WT Docket No. 02-55. Jamestown and Midwest are 800 MHz, CMRS licensees and are acutely interested in the impact any Order resulting from the present proceeding may have on them. As their operations will be directly impacted by the outcome of the above referenced proceeding, Jamestown and Midwest wish the Commission to consider their comments and the opinions and concerns expressed therein.

To comply with the filing requirements announced in the NPRM, Jamestown and Midwest enclose the original copy of its comments herein, along with six copies thereof. The original comments and four copies should be delivered to William F. Caton. One copy should be provided to Qualex International, and one copy should be provided to Michael J. Wilhelm. Please feel free to contact us should there be any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Benjamin J. Aron", with a long horizontal flourish extending to the right.

Benjamin J. Aron

enclosure

cc: Laura Smith

BJA:cfh

system alone or in concert with collocated cellular systems, raises the noise floor, creates desensitization of receivers, and generally creates dead zones beneath sites which are adverse to the operation of analog mobile equipment.

Nor can analog operators “fix” the problem internally. The equipment which is available in the marketplace employs a wide-end receive capability that “listens” across bands that include both digital and analog signals, and which is susceptible to desensitization. One could wish for equipment with better internal filtering or that is characterized with a narrower front end, the same way one could wish that the dictates of the marketplace would not make low-site cellularized use attractive for broadband carriers. But this wishing does not correct the problem.

The problem being known, the Commission is confronted with alternatives for correcting the problem of incompatible operations on the subject spectrum. The obvious choices include: (1) making operations compatible; (2) making equipment less susceptible; or (3) separating the incompatible operations via rebanding or relocation. All three approaches are mentioned in the NPRM and the Commission appears, thankfully, open to a candid discussion of each separately or in concert. Therefore, the following is noted:

Compatibility: To make the presently incompatible systems more compatible is the most cost effective solution for the agency and the industry. Unlike analog operators, the broadband carriers have the ability to alter operations to reduce and, in many cases, fully eliminate the incidents of interference. Beginning with rejecting low-site operations when such system design would

improperly create dead zones of operation would be the first step.

Although the economic realities of demand are known, i.e. that greater spectrum usage is required in urban areas that drive the construction of multiple additional cells, the propriety of employing low-site operations with the attendant unhealthy increase in noise floor and power density in proximity to the cells is not good system design for carriers with an eye toward interference avoidance. To the contrary, such design ignores the effect on spectrum neighbors and places profits ahead of good engineering practices. And, in those limited instances where such operation is essential for a broadband carrier, the CMRS operator could simultaneously design additional sites for public safety operators to decrease the distance between the public safety operator's base stations and mobile receive position. Stated simply, for the cost of a few repeaters to "fill-in" the public safety operations and thus increase the desired to undesired signal ratio of the public safety system and make more robust the adversely affected system, the broadband carrier could counter-design the public safety users' deployment of 800 MHz channels to withstand and overcome the carrier's system. Each such action would be performed on an as-need basis, allowing the carrier's actions to be market driven rather than as a result of wholesale and, perhaps, draconian regulation.

Added to this effort would be a far greater effort in frequency coordination to eliminate, to the extent possible, the adverse effect of intermodulation products which create unintended radiation that benefits no one and harms many. Again, the adverse affects of this unintended radiation is exacerbated via low-site operations and number of such products increase based on the number of collocated channels. Accordingly, good system design in accord with 47 C.F.R. §22.232 et. seq.

would provide some guidance to cellular carriers, with appropriate additions to those responsibilities to provide greater and necessary protection of public safety operations.

As note above, therefore, much of the remedial action which is required to ameliorate the incidents of interference which this proceeding seeks to resolve are within the unilateral control and ability of the interfering carriers. Although the agency will likely need to create rules which direct those carriers to exhibit greater fidelity to their obligations to avoid the creation of harmful interference, the fact remains that the adoption of such rules will go far and go immediately toward a solution.

Susceptibility: The problem with this issue as a portion of resolution is that it involves actions by non-licensees, i.e. equipment manufacturers. Additionally, any change in the method of type acceptance for affected mobile or base units would take a long time to have any demonstrable effect on the marketplace. Although it might be considered as a portion of a long-term improvement of adjacent channel operation, the Commission's desire for more immediate correction will likely be unserved.

Separation: Given the agency's primary function, spectrum management, there is a tendency for the Commission as well as those persons appearing before it to seek a resolution via reallocation, rebanding and/or relocation of certain licensees. Although such strokes of the pen in rearranging frequencies within the Commission's rules is tempting, the effect on the marketplace can be a disaster. A prime example is that radical relocation plan suggested by Nextel. Costing in the billions

of dollars in equipment costs, for which no entity will likely volunteer to pay, the Nextel plan would serve no one. Local operators, like Jamestown, will be forced to pay for unnecessary, unwanted new equipment or accept unfairly secondary status due to no fault of its own. Public safety entities will be forced to migrate down the spectrum without any assurance that the cost of such migration will be covered. Business and industrial/land transportation (B/ILT) operators will also be moved at the cost of new equipment and the disruption of business plans. And each of these moves would be for the sole purpose of solving interference which is not the responsibility or the making of the adversely affected analog operators.

This is not to say that some amount of rebanding may not be necessary. The Commission may find that a small amount of repacking of the 800 MHz spectrum would be beneficial. However, the proposal to move to 700 MHz the public safety operators appears to be the least detrimental for incumbent 800 MHz operators, while providing the greatest long-term benefits for all. This relocation does not entirely correct the problem, as low-site cellularized systems will continue to pose a threat to traditional analog systems. But, if coupled with more stringent requirements on broadband carriers to avoid and remedy harmful interference to other 800 MHz systems, such a relocation might be wholly justified and workable. Such relocation would also free up 800 MHz channels which could be used to grow B/ILT systems and augment local commercial operations, to enhance the competitive marketplace particularly in those areas where local commercial operators provide service to a host of public safety entities.

Based on the foregoing, Jamestown makes the following specific recommendations to the Commission:

- First, the Commission should adopt additional rules which places squarely upon interfering operators the obligation to take all necessary remedial action to avoid and correct all forms of harmful electrical interference. These rules would extend the Commission's existing rules in accord with Section 303 of the Communications Act, and require that broadband carriers provide protection to public safety operations and similar operations, in recognition of each such carriers obligations to operate in a manner which extends quiet enjoyment of the radio spectrum to all users.
- Second, the Commission should relocate public safety operations out of the 800 MHz band and into the 700 MHz band, employing those channels which were allocated for commercial operations, thus suspending Auction 31, placing the safety of life and property ahead of receipts into the U.S. Treasury. The cost of such relocation should be borne by the interfering carriers and should be phased in over time to avoid overly adverse economic consequences for those carriers, while allowing for the exodus from the subject 700 MHz channels by broadcasters.

- Third, the Commission should reject the Nextel plan as too expensive and not funded and creating inequitable costs for analog operators whose operations are non-interfering. Additionally, any imposition of secondary status on non-relocating entities under the Nextel plan is punitive without cause.
- Fourth, any repacking or rebanding plan within the 800 MHz band should be in view of the cost to innocent analog operators whose non-interfering operations do not serve as a basis for such activity. Prior to the Commission taking any such actions, the agency must satisfy itself that funding exists for analog operators' participation in such rebanding, which funding should not equitably be the responsibility of the non-interfering operators.
- Fifth, EA licensees within any band must not lose the opportunity purchased at auction. If accommodation must be made via repacking the band, affected EA licensees must be provided equal amounts of spectrum and opportunity to continue with pending business plans. Jamestown entered its EA auction in good faith, with the intent that it would receive twenty 25 kHz channels for operation within its market area. If made to relocate or provide other accommodation, that obligation must concurrently provide an assurance that the value and amount of the spectrum purchased at auction is not diminished, particularly to remedy the interference caused by third party operators.

Jamestown recognizes the complexity of the matters dealt with within this proceeding and urges the Commission to also recognize the difficulty in balancing the equities among affected


operators. Although the number of interfering operators is small, the number of affected operators is quite great. On the other hand, the number of facilities operated by that small number of interfering CMRS operators is huge. Fortunately, the Commission is dealing with this problem at a time when the number of interfering facilities is still limited. The situation calls for a careful approach, beginning with remedial rules which allow the interfering broadband carriers to deal with the problem on a case-by-case basis, thus allowing for a phasing in of costs while simultaneously studying the appropriateness of any rebanding proposal. Given the paucity of funding sources for a wholesale relocation, it is good that at the present the remedial action which might be taken by broadband carriers can be wholly effective in greatly reducing or eliminating individual cases of interference.

If later rebanding at 800 MHz is made necessary to protect analog operations, such rebanding will only be effective if coupled with a limitation on low-site use by broadband carriers. Further use of low-site architectures will only increase the incidents of interference from intermodulation products. Although the Commission may create a bar against such architectures employing some of portion of the 800 MHz band, the Commission may also invite lifting of the bar via the carriers' obtaining necessary consent from those operators whose systems might be affected from construction of cellularized systems. Such a regulatory scheme would resemble the Commission's actions for trunking VHF and UHF systems, to provide for exclusive use of control channels. In this manner, the Commission promotes private cooperation to resolve the threat of harmful interference, rather than arbitrary rules which might prevent growth of cellularized systems in areas where no actual threat exists.

Jamestown recognizes the need for evolution in the use of the 800 MHz band, but urges the Commission to avoid a revolution that might create more victims than presently exist. Although relocating public safety entities to the 700 MHz band would go a long way toward resolving much of the agency's concerns, long-term solutions for operation within the band by all affected operators is needed. Jamestown will, therefore, continue to closely monitor this proceeding and will continue to offer the Commission comments which are intended to assist the Commission in arriving at a harmonious resolution of all operators' concerns.

Respectfully submitted,

JAMESTOWN COMMUNICATIONS, INC.
MIDWEST MANAGEMENT, INC.

By 
Benjamin Aron

Dated: May 6, 2002

Schwaninger & Associates, P.C.
Attorneys for Jamestown Communications, Inc.
& Midwest Management, Inc.
1331 H Street, N.W., Suite 500
Washington, D.C. 20005
Telephone (202) 347-8580
Facsimile (202) 347-8607